



CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
DIVISION OF LEGAL AFFAIRS
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Legal Guide S-11

GIFT CERTIFICATES

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You want to give a friend a gift, but the recipient "has everything" or you don't know what to give.

By giving a gift certificate, you make it possible for your friend to choose the particular book, item of clothing or other product that he or she wants from the merchant that sold the gift certificate.

Gift certificates are covered by special rules adopted by the California Legislature.¹ The most important rules are that –

- ✓ Gift certificates cannot be offered in a manner that is untrue or misleading,² and
- ✓ Most gift certificates sold after January 1, 1997 cannot contain an expiration date.³

General Rules on Gift Certificates

- ✓ A gift certificate sold after January 1, 1997, cannot contain an expiration date. It is valid until it is redeemed or replaced.⁴
- ✓ The merchant must redeem a gift certificate for its cash value, or replace it with a new gift certificate at no cost. However, California's Legislative Counsel has concluded that a merchant is not required to redeem a gift certificate in cash when requested by a consumer.⁵
- ✓ These rules are subject to the exceptions described below.⁶
- ✓ A gift certificate cannot be offered in a manner that is untrue or misleading.⁷

Tips for Purchasers of Gift Certificates

✓ Ask about the merchant's redemption policy. If the recipient can only redeem the gift certificate for merchandise, or for a particular kind or class of merchandise, does this affect your decision to purchase or give the certificate?

✓ Ask the merchant about its policies on returning merchandise. A recipient who redeems a gift certificate for merchandise will be subject to those policies.

Tips for Recipients of Gift Certificates

✓ Ask about the merchant's redemption policy. Some merchants may redeem the gift certificate for cash

or a combination of merchandise and cash, while some may issue a new certificate for any balance remaining after the original certificate is redeemed.

✓ Ask the merchant about its policies on returning merchandise.

Exceptions

Certain gift certificates sold after January 1, 1998 are not subject to the first two General Rules on Gift Certificates above. To qualify for this exemption, these gift certificates must contain an expiration date in at least 10-point type on the front and must be either:

- 1) Distributed by the issuer to a consumer without charge under an awards, loyalty or promotional program;⁸ or
- 2) Sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes, if the expiration date is 30 days or less after the date of sale;⁹ or
- 3) Issued for a food product, such as a grocery item.¹⁰

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NOTICE: We attempt to make our Legal Guides accurate as of the date of publication, but they are only guidelines and not definitive statements of the law. Questions about the law's application to particular cases should be directed to a specialist.

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Endnotes

1. Statutes of 1996, chapter 933 (AB 2466) and Statutes of 1997, chapter 472 (AB 1054), which enacted Section 1749.5 of the California Civil Code; and Statutes of 1999, chapter 907, which enacted Section 17537.11 of the California Business and Professions Code.
2. Business and Professions Code Section 17537.11.
3. California Civil Code Section 1749.5(a).
4. California Civil Code Sections 1749.5(a),(b).
5. California Civil Code Section 1749.5(a); California Legislative Counsel, Opinion No. 1488 (February 11, 1997) Gift Certificates.
6. California Civil Code Section 1749.5(c).
7. Business and Professions Code Section 17537.11(a).
8. California Civil Code Section 1749.5(c)(1).
9. California Civil Code Section 1749.5(c)(2).
10. California Civil Code Section 1749.5(c)(3); California Attorney General Opinion No. 00-701 (October 23, 2000). The Attorney General's Opinion concluded that a gift certificate for a meal sold by a restaurant may not contain an expiration date.